

Bond Case Briefs

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MUNICIPAL GOVERNANCE - OHIO

State ex rel. Bates v. Smith

Supreme Court of Ohio - August 23, 2016 - N.E.3d - 2016 WL 4486241 - 2016 -Ohio- 5449

Prosecuting attorney sought peremptory writ of quo warranto to prohibit two township trustees from removing third trustee from office and appointing another trustee.

The Supreme Court of Ohio held that:

- Office of township trustee held by trustee on active military duty was not vacant, and
- Meeting at which trustees removed other trustee from office and appointed trustee violated Open Meetings Act.

Office of township trustee held by trustee who was on active military service was not vacant, and therefore other trustees were not statutorily authorized to remove trustee from office and appoint another trustee. Although applicable statute provided that, when a township officer was absent for more than 90 days, the office was deemed vacant, statute expressly excepted active military service from that provision.

Meeting during which two township trustees removed third trustee from office and appointed another trustee did not qualify as an emergency meeting, and therefore failure to give sufficient notice of meeting violated Open Meetings Act, where trustees had held another meeting less than 24 hours before meeting at issue, with no suggestion of any emergency, let alone one that would have compelled another meeting in less than 24 hours.